



## Commentary

## Protecting the poles: Marine living resource conservation approaches in the Arctic and Antarctic



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## ARTICLE INFO

## Article history:

Received 25 January 2016

Received in revised form

4 October 2016

Accepted 6 November 2016

Available online 13 December 2016

## Keywords:

Arctic

Antarctic

MPA

Fishing

## ABSTRACT

The world's polar regions have been singled out as spaces of international interest, with Antarctica being governed under the Antarctic Treaty System and the Arctic by various individual states and the Arctic Council. In recent years, however, both poles have seen an increase in interest in their marine resources as other traditionally fished species become harder to find due to overfishing and as access to the polar regions becomes easier and safer as a consequence of climate change. In this paper, I consider two proposals for the protection of polar marine resources: a 2011 proposal (resubmitted until acceptance in 2016) to create a Marine Protected Area in the Antarctic Ross Sea, and a 2014 proposal to ban commercial fishing in Arctic Ocean waters until further scientific study can be conducted.

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Concerns about regional issues such as illegal fishing in Antarctica and shipping access in the Arctic have brought the world's poles into a greater political conversation about environmental conservation, climate change, and governance. The latter of these is a particularly important issue because these areas are seen as international spaces – Antarctica as a claimed but uninhabited territory, and the Arctic as an inhabited space with high seas maritime waters open to all. The Arctic's main feature is the Arctic Ocean, ringed by mostly indigenous settlers in the northern Canadian isles, Greenland, Norway, Siberia and the Russian north, and northern Alaska. The Antarctic is a continental land mass covered by a large layer of ice, claimed by seven states with territories surrounding it but ultimately regulated by a series of international agreements known as the Antarctic Treaty System. Spoken of in the same breath, they sound more alike than different, but each pole faces its own issues with governance shaped by different histories and different concerns.

Both areas face new environmental challenges in the wake of increasing technology and warming climates. These new challenges require new adaptations for governance, and due to their unique positions in the global order as claimed yet international spaces, such governance has been subject to a great deal of debate and a number of states have felt the need to weigh in on new proposals. Fisheries management, particularly over international high seas

fish stocks, can be difficult, and cooperation between states is by no means assured (Bailey et al., 2010).

In this paper, I examine two recent proposals to protect living marine resources in the Arctic and the Antarctic regions. The Arctic proposal was originally suggested in 2011 by the US and New Zealand, and called for the creation of a marine protected area (MPA) in the Ross Sea, a bay of the Southern Ocean surrounding the Antarctic land mass. The Arctic proposal was fronted by the United States, Canada, and Denmark in 2014, and was more limited in scope. It suggested that the Arctic Ocean should be closed to commercial fishing until a better understanding could be gained on how to safely and sustainably regulate fishing activities in these waters. The Arctic fishing ban was tentatively accepted by the five Arctic Ocean states – Canada, Denmark, Norway, Russia, and the United States – but the Antarctic Ross Sea MPA proposal took over five years to finally succeed. Moreover, the protracted discussions of the Ross Sea MPA proposal were blamed on Russian political disagreement with the Western world – yet Russia managed to come to an immediate agreement with the West over the Arctic fishing ban. What explains this disparity?

## 1. Polar governance: a history

The polar regions differ in terms of the governance structures created to manage activities in their respective areas. The Antarctic's system began with a treaty over six decades ago, and the Arctic's is in some ways still being created. Because of this, the

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Antarctic model is sometimes held up as an example for a potential future of the Arctic – a comparison that is fundamentally flawed on several fronts. While Arctic governance may still be a work in progress, for reasons to be discussed below it seems unlikely to have much in common with the mid-20th century's Antarctic Treaty and subsequent Antarctic Treaty System (ATS) (see Fig. 1).

The ATS's foundational document is the Antarctic Treaty of 1959. By the mid 20th century, there were several potential concerns about Antarctica's future. First, the very successful International Geophysical Year (IGY) of 1957–59 brought scientists to Antarctica

from around the world, and raised awareness of the scientific possibilities of international cooperation over Antarctic research. But this atmosphere of scientific cooperation in Antarctica was overshadowed by two major international issues – a series of territorial claims made to the Antarctic land mass, and the all-encompassing Cold War (Rothwell et al., 2012).

The territorial claims were put forward by seven states – Argentina, Australia, Chile, France, New Zealand, Norway, and the United Kingdom. There was also an unclaimed sector that could have been claimed by the United States, but was not (Rothwell,



Fig. 1. The antarctic region. Map courtesy of the CIA World Factbook.

2012). Much of the rationale for these claims came from historical discovery and from possession of nearby territory. The Argentine, Australian, Chilean, and New Zealand sectors are all directly south of their respective countries, and the Norwegian and British claims are south of small overseas island territories held by each state. The lone remaining claim by the French is fairly small, and is based on historical coastline discovery. Most of these claims were independent of each other, but three of them – those by Argentina, Chile, and the UK – overlapped, creating the potential for conflict (Peterson, 1980). These fears were strengthened by the increasing militarization of Antarctic waters during the 1940s, as Argentina and Chile sent naval forces into the region claimed by the UK as a show of protest against what they saw as that state's illegitimate claim (Hanessian, 1960). By the 1950s, it was seen as increasingly possible that there would be some kind of territorial race for the Antarctic, and that race could potentially be a violent one.

On top of this, the Cold War created further tensions, as the US and the Soviet Union continued to jostle for position as the world's foremost superpower. The 1950s were an area of nuclear testing, where the ideal testing ground was seen as a deserted, unusable space with relatively few people – a description that surely fit Antarctica as well or better than the Nevada desert or Bikini Atoll. Should one superpower conduct nuclear tests in Antarctica, the other was sure to follow, and a militarized Antarctica with nuclear weapons was hardly going to be conducive to peace. Moreover, these tests were likely to occur within someone's claimed area, and only one of the seven claimant states itself had nuclear weapons in the 1950s, the UK. Thus, there were also fears by the claimant states that a nuclear Antarctica was one where they had little to no part.

But luckily, the successful IGY provided another model for Antarctica, one where the continent was seen as being the site of peaceful, cooperative, international scientific research. The 12 states that took part in the IGY – the seven claimants, plus Belgium, Japan, South Africa, the Soviet Union, and the US – were able to work together in their scientific endeavors, inspiring them to try a peaceful approach to managing the continent (Peterson, 1988). The US favored involving the United Nations; the Soviet Union, whose approach won out, preferred the creation of a new regime of which all interested state parties would be members (Toma, 1956; Hanessian, 1960).

The result was the *Antarctic Treaty* (1959), which handled the above problems in a new and peaceful manner. For one, the claims were basically frozen, with the states party to the treaty agreeing that this shared governance mechanism neither supported nor negated the outstanding territorial claims. And second, Antarctica was designated as a demilitarized zone, with nuclear weapons in particular being expressly forbidden. This latter was particularly groundbreaking, as this was the first time that any geographic area had been restricted from the use of nuclear weapons.

The Antarctic Treaty was joined by three others, the 1972 Convention for the Conservation of Antarctic Seals, the 1980 Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), and the 1991 Protocol on Environmental Protection to the Antarctic Treaty. Combined, these four documents plus the regulations for the Antarctic Secretariat make up the Antarctic Treaty System (ATS), and provide the Antarctic with peaceful international governance. In addition, the number of states party to the original Antarctic Treaty has grown to 51, as new states have been able to successfully conduct scientific activities in the Antarctic. Of these 51 states, currently 29 have met the criteria of substantial research activities necessary to become Consultative Parties, who meet annually at the Antarctic Treaty Consultative Meetings to discuss any changes that may be needed to the ATS (see Fig. 2).

While all of this governance was being built in the Antarctic, the Arctic was a very different story. As seen in Map 2 above, the Arctic region consists only of land masses already claimed by states and of the Arctic Ocean. Territorial disputes are minor – while both Denmark and Canada claim Hans Island, a tiny island between Greenland and Canada's Ellesmere Island, there has been no signs that this dispute is likely to cause a major conflict any time in the near future. The only real area left to question is ownership of the Arctic Ocean and the North Pole, both of which are maritime, not territorial, spaces.

Currently there are two governance mechanisms in place for the Arctic. The first of these is the international maritime regime established by the 1982 United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS provides states with a 12 nautical mile territorial sea limit, wherein states can govern with the same sovereign rights as territory, and a 200 nm Exclusive Economic Zone (EEZ) where states have the authority to regulate the living and nonliving resources contained within. States can further enter a claim to an extended 150 nm of continental shelf space to the Commission on the Limits of the Continental Shelf (CLCS), provided that they provide scientific evidence that this extended area is a natural geologic extension of their state's continental shelf.

There are only five states with Arctic Ocean coastlines – Canada, Denmark, Norway, Russia, and the United States. According to UNCLOS, these five should have control over the resources contained in their 200 nm EEZ, as laid out in the treaty and apply to all EEZ spaces, and may even have some extended rights over their EEZ as per their interpretation of Article 234 of UNCLOS, which allows special protections for ice covered waters.

#### Article 234

##### *Ice-covered areas*

*Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence. (UNCLOS, 1982)*

These states should also have control over up to 350 nm of continental shelf, pending successful review by the CLCS (with 200 nm guaranteed), and everything else should be considered to be fully international waters. Of these five states, only the United States has not either made a submission or notified that they intend to make such a submission to the CLCS for an extension of their continental shelf in the Arctic – a situation unlikely to change, as the United States has not yet ratified UNCLOS and thus is not officially a party to the treaty.

In addition to the governance mechanism provided for the Arctic Ocean under UNCLOS, the Arctic has a regional organization as well. The Arctic Council was established by the Ottawa Declaration in 1996 to serve as a regional intergovernmental organization for the Arctic states. The Arctic Council consists of member states that have territory in the Arctic Circle, 66° north. This means that in addition to the five Arctic Ocean coastal states, the Arctic Council also includes Finland, Iceland, and Sweden. The Arctic Council also includes representatives of indigenous peoples of the



Fig. 2. The arctic region. Map courtesy of the CIA World Factbook.

Arctic, which are given the title of Permanent Participants. Currently six indigenous groups are represented in this way: the Arctic Athabaskan Council, the Aleut International Association, the Gwich'in Council International, the Inuit Circumpolar Council, the Russian Association of Indigenous Peoples of the North, and the Saami Council. Though the Permanent Participants are not state members of the organization, the Ottawa Declaration gives these groups “full consultation and involvement in the Arctic Council” (1996).

There can be tension between these two governance mechanisms. While the Arctic Council names eight states as having a rightful say in governance over the Arctic region, UNCLOS only calls for the five coastal states to govern the Arctic Ocean waters that make up a bulk of the region. Thus, at times the Arctic Council eight states act as a governance body, and at other times only the five Arctic Ocean coastal states do. This can strain relations with the three states left out, and render governance confusing given the different jurisdictions under the two regimes.

Note that in the future other maritime governance mechanisms may become of greater relevance – the International Maritime Organization, for example, has adopted what is commonly called the Polar Code to guide shipping in polar waters (IMO, 2016). The Polar Code will enter into force 1 January 2017, and is mandatory under existing international maritime shipping regimes such as the International Convention for the Prevention of Pollution from Ships (MARPOL) and the International Convention for the Safety of Life at Sea (SOLAS). However, the current state of Arctic shipping is relatively low – both the Northwest Passage, through the islands of northern Canada, and the Transpolar Sea Route, which goes over the North Pole, still have too much ice to make passage through them safe for shipping. Only the Northern Sea Route, over Russia, sees very limited traffic, and that is guided and regulated by Russia as part of the route runs through Russian waters. Thus, at this time, shipping regimes are of lesser importance to the overall governance of the Arctic Ocean region.

## 2. Antarctic case – Ross Sea MPA proposal (2011–2016)

In the Antarctic, all marine living resources are managed under the 1982 Convention on the Conservation of Antarctic Marine Living Resources, or CCAMLR. CCAMLR regulates the marine living resources in the area south of the Antarctic Polar Front, the circular area around the Antarctic land mass where cold Antarctic waters meet those of the Atlantic, Pacific, and Indian Oceans. It also regulates all areas south of 60° south that are covered under the Antarctic Treaty. This leads to a rather irregularly shaped area in practice, as CCAMLR can reach as far north as 45° south in places.

Harvesting living marine resources in the Antarctic region is not new; sealing in this region dates back to the late 1700s (Kock, 2007), and whaling began at the turn of the 20th century (William, 1997). Later, when research stations were established in Antarctica in the 1950s, researchers from both New Zealand and the United States harvested Weddell seals in the hundreds as well as penguin and albatross eggs (Stirling, 1971; Kock, 2007). In the 1970s and 1980s, the krill fishery was being regularly harvested by vessels from the Soviet Union, leading to an adoption of precautionary measures to protect this fishery and to the establishment of CCAMLR itself (Grant, 2005; Nicol et al., 2012). In more recent years, concerns have focused mainly around the toothfish, better known and marketed as Chilean Sea Bass. This level of apprehension is caused by two factors: first, this fish is both highly economically valuable, leading it to be prized among commercial fishers, and second, it has a slow growth rate and late maturity rendering it particularly vulnerable to overfishing (Sovacool and Siman-Sovacool, 2008).

The Ross Sea is the largest continental shelf ecosystem in Antarctica, and has remained for the most part well protected from overexploitation (Ballard et al., 2012). This relatively high level of preservation has led to urgent calls for its protection, in order to keep the ecosystem environmentally healthy (Ballard et al., 2012). One form suggested for preserving the region was in the form of some sort of marine protected area (MPA) in the Ross Sea, to restrict human activity for the purposes of helping conserve the marine resources of the area.

An MPA is a marine space that is set aside in some way for conservation, and as such can come in a variety of sizes and forms. Some MPAs are very restrictive in what activities are allowed in their space; others are less so, depending on the human and conservation needs of the area (Costello and Ballantine, 2015; Rodriguez-Rodriguez et al. forthcoming). MPAs are popular conservation tools, because they allow for scientists to better study the ecosystem of an area, and use the knowledge gained to recommend better marine management (Agardy, 1994). MPAs can help restore

fisheries in a particular region, leading to an increase in conservation and also potentially improving surrounding fisheries as well (Roberts et al., 2005). The United Nations, in their 2030 Agenda for Sustainable Development, echoed a call made under the Convention for Biological Diversity to ensure that 10% of the world's oceans are protected by MPAs by the year 2020 (UNGA, 2015). It is worth pointing out, however, that large MPAs, especially ones in remote waters, can face serious enforcement issues – a hurdle that the Ross Sea MPA might find difficult to overcome (De Santo, 2013).

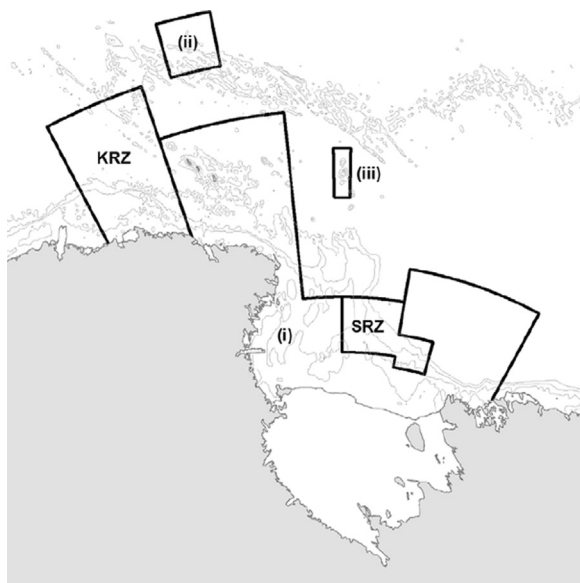
In 2011, this call was answered by two separate proposals by the US and New Zealand for a marine protected area in the Ross Sea. These initial proposals were rejected, but were later combined into a joint proposal resubmitted by these two states from 2012–2016. Each time the proposal was altered in order to try and gain enough support to be adopted by CCAMLR (New Zealand Foreign Affairs and Trade, 2014), an approach that finally succeeded in 2016.

In the earliest years (2012–2014), the main opposition was from Russia and China. Two separate reasons were given for this opposition – first, that strained politics between the West and Russia in the wake of the Crimean and eastern Ukrainian crises have had a negative impact on cooperation, and second, that Russia and China saw the proposed MPA as a way to leave them out of Antarctic management as states without existent territorial claims in the region (Quaile, 2014; Sheriff, 2014).

A more specific reason for rejection, however, stemmed from a different interpretation of “rational use,” which is allowed under the CCAMLR treaty (1980). Fishing states are more likely to oppose the Ross Sea MPA (Trathan, 2012), and “rational use” provides a legal justification for their objection (Everson, 2015). China has claimed in multiple years that fishing is a “rational use” of Antarctic waters, and thus should be allowed under CCAMLR, and Russia has also cited “rational use” as a reason not to have an MPA in Antarctic waters (Jacquet et al., 2016). Unsurprisingly, the US and New Zealand disagreed, citing instead that MPAs are a “rational use” for Antarctic waters (Jacquet et al., 2016).

However, in 2015, things began to change. That year, China endorsed a proposal negotiated by the US and New Zealand for a Ross Sea MPA (while maintaining objections to an MPA in East Antarctica), showing that there was potential for negotiations to overcome these and potentially other objections. China had been slowly warming to the idea of a Ross Sea MPA. In meetings with the US government earlier in 2015, Chinese officials indicated that a marine reserve in the Ross Sea was an area that the two governments could hopefully cooperate on (Kavanaugh, 2015). The Chinese support for the Ross Sea MPA happened relatively late in the 2015 CCAMLR meeting, but was heralded as a sign that continued discussion and negotiation might help bring about consensus on the need for such marine protection (Mounster, 2015). Indeed, China had begun the meeting opposed to the Ross Sea MPA, but after revisions were made, changed their position to one of cautious support (CCAMLR, 2015). Russia, however, remained opposed to the proposal, and since CCAMLR governs by consensus, the proposal did not pass.

The accepted 2016 proposal, seen in Fig. 3 above, called for three areas of protection (New Zealand Foreign Affairs and Trade, n.d.). The area labeled (i) was for general protection, the area marked (ii) was for special habitat protection, and (iii) was to protect the area around Scott Seamount. In addition, a zone (labeled KRZ) was set aside for research fishing for krill, and another (SRZ) for research fishing for both krill and toothfish. What turned out to be crucial for Russian acceptance, however, was not necessarily the proposal itself, which remained largely unchanged from the 2015 proposal. Instead, the 2016 agreement called for the MPA to have a set duration of 35 years, at which point the need for the MPA will be reassessed. This time limit was deemed the most important



**Fig. 3.** MPA in the Ross Sea (2016). Crown copyright<sup>®</sup>. Map Courtesy of New Zealand Foreign Affairs and Trade and reprinted with permission.

element for securing agreement at long last (Slezak 2016).

### 3. Arctic case – 2014 proposal to ban commercial fishing

Arctic governance is a very different process than Antarctic governance. CCAMLR has been in place since 1982 and has a long history of working for the preservation of Antarctic living resources. The Arctic, on the other hand, is governed by two separate regimes, the Arctic Ocean under UNCLOS and the Arctic Circle under Arctic Council. Either of these could be an appropriate venue for addressing the preservation of marine living resources – UNCLOS may be the world's dominant maritime regime, but the Arctic Council certainly deals with issues impacting the Arctic marine environment. This overlap has naturally led to some tensions between the five states party to both and the three states that are only on the Arctic Council, as well as the Permanent Participants who are also shut out of UNCLOS-guided decision making.

The Ilulissat Declaration of 2008 was issued by the five Arctic Ocean coastal states, and proclaimed that these states would work together within the framework set out by UNCLOS to govern the Arctic Ocean. It was seen as a potential threat to the Arctic Council,

as it could be interpreted as undermining the organization's work and cutting out the three states without coastal Arctic Ocean territory (Yeager, 2008). However, in the intervening years the occasional activity by the five coastal states seems not to have negatively impacted the ability of the Arctic Council to govern. Since then the Council has negotiated and signed two legally binding treaties: an agreement on search and rescue in the Arctic and another covering oil spill preparedness and response.

The five Arctic Ocean states took up the question of a commercial fishing moratorium at an informal meeting in Nuuk, Greenland in 2014. Canada, Denmark, and the US wanted an agreement between the five that commercial fishing should be banned in the entire Arctic Ocean until such time as studies could conclude what level of fisheries harvest was environmentally sustainable. Norway and Russia were not on board with the idea at the beginning of the three days of talks in February 2014, but by the end of the meeting all five had agreed to a limited interim ban on commercial fishing in the high seas area of the Arctic Ocean and to conduct more scientific research before coming to any permanent agreement over the management of fisheries in these waters.

This informal agreement was then codified a year later in the “Declaration Concerning the Prevention of Unregulated High Seas Fishing in the Central Arctic Ocean,” signed by all five Arctic Ocean states in Oslo, Norway, in July 2015. This declaration is an interim one, designed to protect Arctic marine life from commercial fishing until such time as scientific research indicates that such activities will not be of harm to Arctic marine life (Canada et al., 2015). As such, it is meant to begin a broader round of investigation and regime development beyond the five Arctic Ocean coastal states to include any state whose ships may be interested in pursuing commercial fishing in the Arctic Ocean (Myers, 2015).

Whether this will be a successful instance of marine living resource protection is difficult to say, however. The agreement did not ban commercial fishing in the coastal states' EEZ waters, for instance, though the US has done this as well. Canada has matched this policy in the Beaufort Sea region, closing its side of the maritime border to commercial fisheries as well. But this is a choice these states can make for their EEZ waters, not something that they are obligated to do. Likewise, harvesting marine living resources in the territorial sea is not banned, and is important for indigenous livelihoods across the Arctic as well as a thriving commercial industry in Russia (Myers, 2015). Also, the area in question covered by the agreement is located in international waters – the part of the Arctic Ocean outside the reach of the coastal states' EEZs. These five states don't have any legal rights under UNCLOS or any other maritime agreement to regulate the international waters of this

**Table 1**

Arctic ocean coastal states versus Arctic council.

Arctic Ocean coastal states	Arctic Council state members
United States	United States
Canada	Canada
Russia	Russia
Norway	Norway
Denmark	Denmark
	Sweden
	Finland
	Iceland
<b>Arctic Council Permanent Participants</b>	
Arctic Athabaskan Council	
Aleut International Association	
Gwich'in Council International	
Inuit Circumpolar Council	
Russian Association of Indigenous Peoples of the North	
Saami Council	

high seas area. Thus it is highly uncertain that this agreement could be enforced internationally on other states, nor is it spelled out how the five coastal states would expect to do so. If other states choose to bind themselves to a commercial fishing ban in the high seas of the Arctic, then they are welcome to do so – but this agreement cannot mandate this acceptance.

Currently though they do not have to try and enforce this, as there are no commercial fisheries in the international waters of the Arctic Ocean, and in the agreement the five states note that there is unlikely to be any such commercial activity any time soon. Instead, the interim agreement, in the face of a total lack of commercial fishing activity in the high seas of the Arctic Ocean, is seen as a potential first step in creating that broader, mandatory international legal regime that would be necessary to prevent any future undesirable activities. Indeed, this agreement calls into stark contrast the level of international organization present in the Arctic versus the Antarctic, and also the wide difference in scope with regards to the kinds of marine living resource protection plans that are under discussion in each polar region (see Table 1).

#### 4. Discussion

The difference between the immediate acceptance of the Arctic fishing ban and the prolonged and difficult negotiations that were needed for final acceptance of the Ross Sea MPA in Antarctica was the stance taken by Russia. Russia's acceptance of the commercial fishing ban in the Arctic made it possible for speedy agreement on that issue, but its hesitation to support the Ross Sea MPA caused that proposal to have to go through six different CCAMLR meetings before acceptance. Why such a difference?

We cannot know for certain what political reasoning sits behind the surface of state decision-making. Russian politics, like those of any major nation-state, are complex and complicated, and only the decision-makers involved can know for sure why they made the choices that they did. That having been said, there are three potential reasons why Russia's different political positions in the Arctic and the Antarctic may be less surprising than they appear to be on the surface.

First, in one case Russia is a beneficiary of the policy and in the other it is disadvantaged by the proposed preservation mechanism. The Ross Sea MPA proposal was arguably a threat to Russian interests. Russia possesses no territorial claims to the Antarctic land mass, and thus stands to gain no benefits by increased environmental protection for marine living resources. Moreover, Russia stands to potentially lose out politically if this is indeed a step in the direction of shutting out non-claimant states, which is something Russia has long been worried about (Toma, 1956). And lastly, Russia's commercial fishers lose easy access to a rich and valuable resource; in the wake of the MPA's establishment, Russian toothfish fishers will have to travel farther from shore (Slezak 2016). But in the case of the Arctic proposal, Russia would gain by restricting access to the international waters of the Arctic Ocean. This would help preserve marine living resources in the Arctic Ocean, which would be of benefit to indigenous activities and commercial fisheries in Russia's territorial seas and EEZ, and would preserve Russian authority in the Arctic Ocean. In the Arctic, Russia was acting to exclude others, not facing exclusion itself.

Second, the Arctic policy is much less formal, is reduced in scope, and requires much less in the way of commitment than the Antarctic policy, making cooperation easier to gain. The 2014 agreement in Nuuk and its 2015 codification in Oslo was only a commitment to engage in scientific research in the Arctic Ocean, which all five Arctic Ocean coastal states currently do, including Russia. It failed to limit ongoing national activity in the EEZ, meaning it posed no threat to state sovereignty, and merely called

for continued discussion on the topic. It also limited a ban to just commercial fishing, and did not call for a full scale protection of all marine living resources. In contrast, the Ross Sea MPA was a fully realized proposal that would go into effect under the ongoing governance of CCAMLR. It is far easier to agree to further discussion than it is to agree to a full proposal of something that would become official policy upon agreement. CCAMLR further has a larger number of actors that it has to bring to agreement, further complicating the possibility of cooperation (Oye, 1985). Thus, while in many cases agreements may come easier with international institutional support (Schiff and Winters, 2002), in this case, such an organization may have impeded cooperation by tying states into a formal framework instead of allowing for a more informal agreement such as the Arctic Ocean states proposed.

And lastly, the Antarctic policy limited an ongoing activity in the Ross Sea, while the Arctic policy is a potential, preventative measure. When there are definite costs to a proposal, agreement is likely to be more difficult to gain; since Russia is one of the primary states with a strong Antarctic fishing industry, it is unsurprising that their agreement was the last and most difficult to achieve. Limiting commercial fishing in the international waters of the Arctic Ocean, however, is much easier because currently no vessels are undertaking this activity. No vessel or state will be harmed by a continued lack of activity in the region, making it easier to put a preventative plan into place.

But this suggests some interesting things about the future of polar cooperation between Russia and the West. While the Ross Sea MPA took a great deal of time to find acceptance, in the end cooperation under CCAMLR produced a proposal that everyone could agree with. Indeed, in some ways the final proposal was made more flexible like the Arctic proposal – this flexibility was added with the 35 year timeframe, allowing Russia a chance to resume its opposition in the future rather than committing it to a policy in perpetuity. This allowed all parties to overcome political tensions and find common ground in an acceptable proposal. Likewise, the success of the Arctic fishing ban makes it clear that a continued focus on preventing future problems should be encouraged, because cooperation is likely to be easier to obtain than if states wait to react to ongoing issues. Preventive management has long been a hallmark of governance in both the Arctic and Antarctic regions, and these recent marine resource protection plans indicate that such proactive thinking is an appropriate way to consider polar governance well into the future.

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